



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP
Docket No: 4952-02
15 November 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 November 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 31 March 1978 for four years at age 21. You served without incident until 2 March 1979, when you received nonjudicial punishment (NJP) for unauthorized absence from 22 January to 21 February 1979, a period of 30 days. The punishment imposed was a forfeiture of \$200 and reduction to paygrade E-2.

You also received NJP on 25 January 1980 for six instances of failure to go to your appointed place of duty. The punishment imposed was 21 days of restriction and extra duty. On 8 April 1980 you were convicted by a special court martial for unauthorized absence from 16 June to 13 November 1979, a period of 150 days; failure to go to your appointed place of duty and missing ship's movement. You were sentenced to confinement at hard labor for three months and forfeitures of \$300 per month

for three months. On 20 March 1980, the convening authority approved the adjudged sentence and ordered its execution.

On 16 April 1980, you were notified that separation action was being initiated by reason of unsuitability. You were advised of and waived all of your procedural rights. On 25 April 1980 you received a general discharge by reason of unsuitability and the assigned an RE-4 reenlistment code.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and your contention that your misconduct was the result of family problems and bad advice. Nevertheless, the Board concluded that your general discharge were appropriate based on your two NJP's and special court martial conviction for 150 days of unauthorized absence. Additionally, even if you were provided bad advice, this cannot excuse your misconduct. You should consider yourself fortunate to have been given a general discharge instead of an other than honorable discharge, which was normally issued for this type of misconduct. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director